



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

is such an illegality as is contrary to the principles of law as distinguished from the rules of procedure. *Habeas corpus* proceeding is a collateral attack of a civil nature to impeach the validity of a judgment or sentence of another court on a criminal proceeding and it should therefore be limited to cases in which the judgment or sentence attacked is clearly void by reason of its having been rendered without jurisdiction or by reason of the court having exceeded its jurisdiction in the premises. *In re Frederick*, 149 U. S. 70, 76. *People v. Liscomb*, 60 N. Y. 559. In the instant case the court had complete jurisdiction. The judgment was based on false testimony but this did not make it void. This is the only case reported where *habeas corpus* was resorted to. The plaintiff's remedy, though unsatisfactory, was to appeal to the pardon board. In other words, the Court had jurisdiction to make wrong as well as right decisions in all stages of prosecution, and whether those made were right or wrong cannot be raised on *habeas corpus* proceedings. *People v. Liscomb*, *supra*; *State v. Sloan*, 65 Wis. 647.

INCOME TAX ACT—ALIMONY NOT INCOME.—Under a divorce decree, entered in 1909, whereby the plaintiff in error was ordered to pay the defendant in error, during her life, the sum of \$3,000.00 every month, for her support and maintenance, the question arose whether the monthly payments during the years 1913 and 1914 constituted parts of defendant in error's income, within the intentment of the Income Tax Act, of Oct. 3, 1913 (38 Stat. 114, 166), so as to be subject to the tax prescribed therein. *Held*, that they did not. *Gould v. Gould*, (1917), 38 Sup. Ct. 53.

The particular portions of the Act involved in the question in the instant case were Section II, A, Subdivision 1, declaring that a tax of 1% per annum "shall be levied, assessed, collected, and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, * * * and to every person residing in the United States, though not a citizen thereof"; and Section II, B, declaring that "the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid * * * or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent * * *". In interpreting the Act, the court applies what it lays down as the established rule to be applied in the interpretation of statutes levying taxes, viz.: The provisions of such statutes will not be extended, by implication, beyond the clear import of the language used; their operations will not be enlarged so as to embrace matters not specifically pointed out; and, in case of doubt, they will be construed most strongly against the Government, and in favor of the citizen; citing *U. S. v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U. S. 468; *Benziger v. U. S.*, 192 U. S. 38. Applying this rule, the Court in a very brief opinion, said that it could not assert that alimony paid to a divorced wife under a decree of court fell within the term "net income", as defined in the Act. This decision further increases the anomalous character of alimony, previous cases having held that it is not a debt so as to be prov-

able in bankruptcy and barred by the discharge, *Audubon v. Shufeldt*, 181 U. S. 575; *Wetmore v. Markoe*, 196 U. S. 68; *Thompson v. Thompson*, 226 U. S. 551; *Barclay v. Barclay*, 184 Ill. 375; that the property awarded to the wife as alimony does not become part of her estate in bankruptcy, *In re Le Claire*, (Dist. Ct. N. D. Ia., W. D. 1903) 124 Fed. 654, 658; that alimony awarded to a wife cannot be subjected to the payment of her debts existing prior to the decree of divorce, *Kingman & Co. v. M. A. Carter, et al.*, 8 Kan. App. 46; *Romaine v. Chauncey et al.*, 129 N. Y. 566; *Fickel v. Granger*, 83 Oh. St. 101; that alimony awarded a wife cannot be attached in an action against her, except in an action for such necessities as the husband would have been obliged to furnish, had the marital relation continued, *West v. Washburn*, 138 N. Y. S. 230.

INCOME TAXES—CORPORATIONS—INTERNAL REVENUE.—A corporation owned all the stock of several subsidiary companies. A dividend was received by the main corporation from the subsidiaries. Plaintiff, Internal Revenue Collector, attempted to tax such dividend under the Income Tax Act Oct. 3, 1913, c. 16, 38 Stat. 114. *Held*, taxable as income. *Lewellyn v. Gulf Oil Corp.* (C. C. A. 3rd Cir. 1917) 245 Fed. 1.

Since the Sixteenth Amendment to the Constitution, which gave Congress the power to collect taxes on income from whatever source derived, was held constitutional, *Brushaber v. Union Pacific*, 240 U. S. 1, the question has often arisen what constitutes taxable income of corporations. In *Southern Pacific Co. v. Lowe*, 238 Fed. 847 it was held, where all the stock of a corporation was owned by another corporation which handled the money of the former and kept its accounts, the surplus earned by the former was nevertheless its property, so that a dividend declared was income of the holding corporation. It has been held that where property lying idle, earning no money but having increased to double its original value and sold for such increased value, that a distribution of the proceeds did not constitute a division of "income" within the meaning of the act. *Lynch v. Turrish*, 236 Fed. 653. Money earned as interest and distributed as dividends is without contradiction taxable income. So why not where the property lying idle increases in value and the sale price divided amongst the shareholders? If the original owners of the idle property had continued in possession and had issued stock dividends equal to the increased value of the property, no one would question that it would be taxable income. The decision in *Lynch v. Turrish* is to be reviewed by the Supreme Court. Income is defined to be receipts which constitute an accretion to capital and this would include increased value of idle property. The instant case holds that an ordinary dividend from accumulated earnings is income. The government cannot tax undistributed surplus as income but must wait until it is declared as dividends and paid. This is true whether the dividends be paid to a stockholder or to a holding corporation. *Union Pacific v. Frank*, 226 Fed. 906.

INNKEEPER—IMPLIED WARRANTY—LIABILITY FOR PERSONAL INJURY.—Plaintiff became a guest for reward at defendant's hotel. During the night fire broke out and in endeavoring to escape from the hotel, plaintiff was severely